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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/566,317

02/26/2007

Michael Schober

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Davidson, Davidson & Kappel, LLC  
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EXAMINER

IZAGUIRRE, ISMAEL

ART UNIT

PAPER NUMBER

3765

MAIL DATE

DELIVERY MODE

05/11/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/566,317	<b>Applicant(s)</b> SCHOBER ET AL.	
	<b>Examiner</b> Ismael Izaguirre	<b>Art Unit</b> 3765	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 November 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 19-23 and 26-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-23, 26, 28, 29 and 31 is/are rejected.
- 7) ☒ Claim(s) 27 and 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/27/06</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of claims 19-23 and 26-31 in the reply filed on 11/10/08 is acknowledged.

Claims 24 and 25 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claims. Election was made **without** traverse in the reply filed on 11/10/08 and his acknowledged.

## **CLAIMS**

### ***Summary***

Claim 19 is the independent claim under consideration in this Office Action.

Claims 20-23 and 27-31 are the dependent claims under consideration in this Office Action.

Claims 24 and 25 have been withdrawn.

### ***Claim Rejections - 35 U.S.C. § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 20-23, 28 and 29 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Referring to the above noted claims, the scope is unclear in these claims since they do not clearly further include positive manipulative steps for the process. They denote or present further structural limitations or specify further elements involved in the resulting product.

Referring to claim 22, the words “performed via fiber technology” are unclear. It is unclear what positive method steps are involved in “fixing” by “fibering”.

***Claim Rejections - 35 U.S.C. § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19-23, 26 and 31 are rejected under 35 U.S.C. § 102(b) as being anticipated by Erth et al. (DE10252671).

Erth et al. teach a process for producing a fibrous laminate. Erth et al. teach the method as including the steps of providing stacked layers of carbon fiber reinforced plies or bands 7a. These stacked layers are then sewn by forming sewing regions comprising lines for connecting the layers one to another. The layers being placed one below the other and having fibers oriented in preferred directions. A cutter 51 is provided for cutting in selected steps for contouring and forming a three dimensional shape to the laminate. The cutter is shaped and is sized such that the layers not being

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engaged by the head are thus protected by not being within the contact area of the head.

Claims 19-23, 26 and 31 are rejected under 35 U.S.C. § 102(b) as being anticipated by Palmer (6,187,411).

Palmer teaches a process for producing a fibrous laminate. Palmer teaches the method as including the steps of providing strategically stacked layers of glass fiber reinforced panels. These stacked layers are then sewn by forming sewing regions comprising lines 24 for connecting the layers one to another. The layers being placed one below the other and having fibers oriented in preferred directions (figure 3, for example). Palmer teaches contouring the panels (column 5, line 41).

Claims 19-23, 26 and 31 are rejected under 35 U.S.C. § 102(b) as being anticipated by Kozel (5,480,399).

Kozel teaches a process for producing a fibrous laminate. Kozel teaches the method for forming an impeller as including the steps of providing stacked layers of glass fiber reinforced layers or laminae 64. These stacked layers are then sewn by forming sewing regions comprising lines 72 for connecting the layers one to another. The layers being placed one below the other and having fibers oriented in preferred directions (figure 4, for example). A numerically controlled five axis machining apparatus 110 is provided for cutting in selected steps for contouring and forming a three dimensional impeller shape to the laminate (figures 8 and 9). The cutter is shaped and is sized such that the layers not being engaged by the head are thus protected by not being within the contact area of the head.

### ***ALLOWABLE SUBJECT MATTER***

Claims 28 and 29 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. § 112.

Claims 27 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***PERTINENT CITATIONS***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Champenois et al. Vees et al. Bouillon, Hankel, Benoit et al. Prevorsek et al. and Blakeley et al. illustrate multilayer laminates including multiple layers of fibrous materials which are either sewn or fastened in another manner layer to layer.

### ***INQUIRIES***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Izaguirre whose telephone number is (571) 272-4987. The examiner can normally be reached on M-F (8:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ismael Izaguirre/  
Primary Examiner, Art Unit 3765